Supreme Court, U.S.
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No. _____

In the Supreme Court of the United States

BDT PRODUCTS, INC.; AND
BURO-DATENTECHNIK GMBH & COMPANY KG,
Petitioners,

v.

LEXMARK INTERNATIONAL, INC.,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether federal courts impermissibly deviate from their duties in diversity cases by creating, without considering relevant state authorities, new substantive legal principles to determine when information qualifies as a trade secret as defined by the Uniform Trade Secrets Act.

2. Whether, in opposing a motion for summary judgment, a party may demonstrate a genuine issue of fact by relying on the party's declaration which the court finds contradicts a superseded pleading.

3. Whether the district courts have discretion to opt out of the procedure provided by Rule 54(d)(1) of the Federal Rules of Civil Procedure and tax costs without notice to the parties.

4. Whether the district courts have discretion to interpret 28 U.S.C. § 1920 to tax costs which are not enumerated in the statute.

CORPORATE DISCLOSURE STATEMENT

Petitioners have no parent corporation, and no publicly held company owns 10% or more of Petitioners' stock.

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PETITION FOR A WRIT OF CERTIORARI

Petitioners BDT Products, Inc. and Buro-Datentechnik GmbH & Company KG (collectively "BDT") respectfully petition for a writ of certiorari to review the judgments of the United States Court of Appeals for the Sixth Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeal on the cost appeal (on which the filing date for this Petition is based) is reported at 405 F.3d 415 and is found at App."A." The opinion of the court of appeal on the merits is reported at 124 Fed.Appx. 329, 2005 U.S.App. Lexis 2602 and is found at App."B." The order denying Petitioners' motion to reconsider is attached as App."C," and the district court's order on the merits is reported at 274 F.Supp.2d 880 and is attached as App."D."

JURISDICTION

The judgment of the court of appeals on the merits was entered on February 11, 2005 (App."B"), and Petitioners' motion for reconsideration was denied on April 25, 2005 (App."C"). The judgment of the court of appeals on the cost issues was entered April 20, 2005 (App."A"). This court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

STATUTORY AND REGULATORY PROVISIONS INVOLVED

Section 1(4)(ii) of the Uniform Trade Secrets Act adopted in Kentucky as Kentucky Revised Statutes ("KRS") § 365.880(4) provides that, to qualify as a "trade secret,"